

HIGHLAND HOLDING LLC, * BEFORE THE
PETITIONER * PLANNING BOARD OF
ZONING BOARD CASE NO.: ZB 1082M * HOWARD COUNTY, MARYLAND

* * * * *

MOTION: *To recommend approval of the petition in accordance with the Department of Planning and Zoning recommendation, with the clarification that the hours of operation will be for serving lunch and dinner only and that the approval not be contingent upon obtaining variances.*

ACTION: *Recommended Approval; Vote 4 to 0*

* * * * *

On November 19, 2009, the Planning Board of Howard County, Maryland, considered the petition of Highland Holding LLC for an amendment to the Zoning Map to rezone 3.06 acres from the RR-DEO District to the BR District, with a Preliminary Development Plan for a standard restaurant.

The Petitioner was represented by Sang Oh. Also present and representing the Petitioner was Niles Morton, Rob Vogel and Greg Phillips. David Robinson and Fred Davis testified in opposition to the petition.

The petition, the Department of Planning and Zoning Technical Staff Report and Recommendation, and the comments of reviewing agencies, were presented to the Board for its consideration. The Department of Planning and Zoning recommended approval of the petition based on findings that the petition complies with the BR District criteria, but with the understanding that the approval of the proposed development would be contingent upon the approval of variances, as noted in the September 24, 2009 Technical Staff Report.

Mr. Oh stated that there have been other Zoning Board cases approved which also needed variances, and it will be the Petitioner's responsibility to make a successful case for the variances, or else the development cannot proceed as proposed. He noted that the location of the entrance is as agreed to with the Greater Highland Crossroads Association ("GHCA").

Miles Norton stated that they have worked with the community for many years and it was decided that a restaurant would be a good use for Highland. He emphasized that it would be a local restaurant and not a chain restaurant, and that the chef intends to support local farms by purchasing local produce. Rob Vogel testified that the proposed development can be revised if the variances are

1 not approved. He pointed out that the elevation of the parking lot will be lower than Highland Road,
2 so with that and the landscape buffer along the frontage there should be no headlight glare and the
3 properties across Highland Road will not be adversely affected. Greg Phillips stated that they would
4 be open to adding buffer landscaping on the properties across Highland Road if they can, and he
5 emphasized that because the Zoning Map Amendment is based upon a specific Preliminary
6 Development Plan and use, the use cannot change unless a revision is brought back to the Planning
7 Board and the Zoning Board.

8 David Robinson testified that he lives across Highland Road from the site and that he
9 opposes the petition because it will change the residential character of the vicinity and because he
10 will have a direct view of the parking lot and cannot add a landscape buffer on his property due to
11 the location of his driveway. He noted that the relatively new commercial development at the
12 Highland Road intersection with MD 108 is underused, and that if this property is rezoned the area
13 between this property and the post office will be under pressure to redevelop as well. Fred Davis
14 testified that the restaurant use will impact Highland Road because it is narrow, and that he believes
15 GHCA wanted to keep commercial uses adjoining the MD 108 intersection with MD 216 and
16 Highland Road.

17 Kevin Bell testified that he is a resident of the area and that he supports having a restaurant
18 because there is no "fine dining" restaurant in the greater area. Susan Scheipt and Kevin Groner also
19 testified in support of the petition.

20 The Board discussed the technical staff report, testimony of all persons along with their
21 responses to Board questions about landscaping, parking, lighting, commercial crossroads'
22 boundaries, trash/dumpster placement, and outdoor use. The Board agreed that the Petitioner is
23 proposing an appropriate use for the area and has demonstrated a willingness to work with the
24 community. The Board supports the Petitioner's offer to provide mirror landscaping on the
25 properties across Highland Road. With respect to the impact of headlights and parking lot lighting,
26 the Board determined that the berm, topography of the parking lot being 14' below the road grade,
27 and the heavy landscaping would sufficiently minimize any impact.

28 The Board based their recommendation for approval on the following criteria:

- 29 • The petition satisfies the BR district criteria.
- 30 • The rezoning is site plan specific and therefore cannot be altered without going through the
31 public process.

- The berms and landscaping package and the potential for mirror planting help reduce impact on surrounding properties;
- The rezoning is within 1,000 feet of the crossroads which is permissible given the bulk regulations.
- The commercial use is an appropriate use for the area.
- Mitigation measures pertaining to ingress and egress are contained in the FDP.
- The developer has expressed a continued willingness to work with the community, specifically in regards to their efforts to minimize the impact of headlights and parking lights from the site.

Ms. CitaraManis made the motion to recommend approval of the petition in accordance with the Department of Planning and Zoning recommendation, with the clarification that the hours of operation would be for serving lunch and dinner only and that the approval not be contingent upon obtaining variances. Mr. Grabowski seconded the motion. The motion passed by a vote of 4 to 0.

For the foregoing reasons, the Planning Board of Howard County, Maryland, on this 3rd day of December, 2009, recommends that Zoning Board Case No. ZB 1082M, as described above, be APPROVED as noted above.

HOWARD COUNTY PLANNING BOARD

Linda A. Dombrowski (DPG)
Linda A. Dombrowski, Chairman

David Grabowski
David Grabowski, Vice-Chair

Tammy J. CitaraManis (DPG)
Tammy J. CitaraManis

Paul Yelder
Paul Yelder

ATTEST:

Marsha S. McLaughlin 12/17/09
Marsha S. McLaughlin, Executive Secretary

1
2